

Claim 22. (Previously Added) A beverage container holder according to Claim 21, further comprising:

spring means for biasing said supporting member to said position located below said rectangular opening.

Claim 23. (Canceled)

### **REMARKS**

Reconsideration and withdrawal of the rejection with respect to all of the claims NOW in the application, i.e., Claims 19, 20, 21, and 22, is respectfully requested in view of the following amendments and the following remarks.

Initially, Applicant notes with appreciation the withdrawal of all previous grounds of rejection. As will be described in greater detail below, it is respectfully submitted that the cited new art, either applied alone or in combination, neither discloses nor suggests the invention as now claimed.

More particularly, Claims 18-22 have now been rejected under 35 U.S.C. § 103 on the basis of the newly cited German patent DE 197 29 689 which the Examiner alleges discloses a beverage container holder (Fig. 1), including a plurality of

retaining members (16) having a V-shaped profile when viewed in a vertical plane with the point of the V (see Fig. 3) extending towards a central opening. Applicant respectfully submits that this is simply incorrect.

DE 197 29 689 teaches the use of springed-loaded, rigid pivoting retaining jaws (7, 16) that have a flat surface contacting the container to be retained as is illustrated in the drawing enclosed herewith. Indeed, it teaches away from the use of resilient, V-shaped fingers having point contact with a container for releasably and resiliently grasping both round and square beverage containers, as now claimed in Applicant's Claims 18 and 21. It also does not suggest such a beverage holder of unitary construction as also now claimed.

It can be seen that when the container is inserted into the holder the dynamics of the retaining jaw (7, 16) are such that when they pivot to accept a container in a fully loaded position, the forward edge of the jaw extends downwardly away from the container. In contrast, in Applicant's invention, the point of the V extends generally towards the center of the rectangular opening and the four resilient fingers that define these points cooperate to resiliently and releasably grasp round and square beverage containers at the point of said V-shaped fingers. Another distinction is that the V-shaped fingers, the rectangular basket containing said V-shaped fingers, as well as a U-shaped hook used to support the assembly are made from a unitary construction. Instead DE 197 29 689 was designed to hold containers in a circular

holder through contact of multiple flat surfaces (16) provided by spring loaded retainer members.

Finally, Applicant hereby requests a one-month extension of time in which to respond to the outstanding Office Action. Credit Card payment form no. PTO-2038 in the amount of \$55.00 is enclosed to cover the official filing fee. Any fee deficiency or overpayment may be charged or credited to applicant's Deposit Account No. 07-0130.

In light of the above, all of the claims now pending in the application are believed to be in patentable over the newly cited art. Accordingly, an expeditious and favorable action is hereby solicited.

Respectfully submitted,

JOSEPH E. PORCELLI

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Enclosures: One (1) page sketch

USPTO Form 2038 in the amount of \$55.00

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